

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for December 10, 2003 PLANNING COMMISSION MEETING

P.A.S.: Change of Zone 3424

PROPOSAL: To change the zoning on approximately 19 blocks within the Everett Neighborhood from R-4, R-5, and R-6 Residential and B-3 Commercial to R-2 Residential.

LOCATION: Generally located between 9th and 13th Streets, from Washington to South Streets.

LAND AREA: 67.84 acres, more or less.

CONCLUSION: This neighborhood appears to have reached a point where the mix of residential uses seems appropriate. The current mix is approaching a tipping point, at which additional two- and multiple-family dwellings would start to overload the carrying capacity of the neighborhood. Approval of this change of zone would preserve the current development pattern and limit the potential for increasing housing density in an area with a fixed amount of infrastructure.

<u>RECOMMENDATION:</u>

Approval

GENERAL INFORMATION:

LEGAL DESCRIPTION:

The following additions and parts of additions:

South Lincoln Addition, Blocks 18-20, Lots 5 and 6, Block 21, Lots 1-3, Block 22, Blocks 23-25, Lots 7-12, Block 26, Lots 1-3, and 7-12, Block 30, Lots 3-12, Block 31, Blocks 32-34, the vacated portion of Plum Street adjacent to Block 34, Lots 1, 2, and 5, Block 35, Lots 1, 2, 5, and 6, Block 36, Block 37, Lots 1-6, and 9-12, Block 38, and Blocks 39-41,

V.S. Howe's Subdivision Lots A, B, and C,

Hagenow's Subdivision, Lots A, B, and C,

Heidenreich's Subdivision, Lots A, B, and C,

Borgelt's Subdivision, Lots 7-12,

all located in the NE 1/4 of Section 35 T10N R6E, Lancaster County, Nebraska.

EXISTING ZONING: R-4, R-5, and R-6 Residential, B-3 Commercial

EXISTING LAND USE: Single-, Two-, and Multiple-Family dwellings, churches,

SURROUNDING LAND USE AND ZONING:

North:	Residential uses	R-6 Residential
South:	Commercial uses	B-3 Commercial
East:	Residential uses	R-5 Residential
West:	Residential uses	R-4 Residential

HISTORY:

Prior to the 1979 zoning update, this area was zoned B Two-Family Dwelling, C Multiple Dwelling, and D Multiple Dwelling. As a result of the update, the zoning changed to R-4 Residential, R-5 Residential, R-6 Residential, and B-3 Commercial, which substantially reflected the previous zoning.

HISTORY OF OTHER RESIDENTIAL DOWNZONING:

- Sept 2003 Change of Zone #3416 from R-4 Residential to R-2 Residential was approved for an area within the Witherbee Neighborhood. The Planning Department recommended denial.
- Aug 2003 Change of Zone #3412 from R-4 Residential to R-2 Residential was approved for an area within the Antelope Park Neighborhood. The Planning Department recommended approval.
- Apr 2003 Change of Zone #3397 from R-4 Residential to R-2 residential was approved for an existing landmark district within the Near South Neighborhood. The Planning Department recommended approval.
- Oct 2002 Change of Zone #3378 from R-5 and R-6 Residential to R-2 Residential was approved within the existing Mount Emerald Neighborhood landmark district. The Planning Department referred to new language in the recently adopted Comprehensive Plan on preserving the character of the existing neighborhoods.
- Feb 2002 Change of Zone #3354 from R-4 Residential to R-2 Residential was approved for the area located immediately adjacent and southeast of this application. The area included approximately 106 dwelling units. The Planning Department recommended denial because the change would cause 35% of the lots to become nonstandard and the R-4 district allows a diversity of housing types.
- Jun 1995 Change of Zone #2890 from R-4 Residential to R-2 Residential was approved for a small area located immediately adjacent and west of this application. The area included 23 dwelling units (21 single-family and 2 duplex units). The

Planning Department recommended denial because the change would result in 57% of the lots becoming nonstandard

COMPREHENSIVE PLAN SPECIFICATIONS: The Comprehensive Plan shows the area as Urban Residential. (F 25)

Urban Residential: Multi-family and single-family residential areas with varying densities ranging from more than fifteen dwelling units per acre to less than one dwelling unit per acre. (F 27)

COMP PLAN SPECIFICATIONS THAT SUPPORT THIS CHANGE OF ZONE:

The *Overall Guiding Principles* for future residential planning include:

One of Lincoln's most valuable community assets is the supply of good, safe, and decent single family homes that are available at very affordable costs when compared to many other communities across the country. Preservation of these homes for use by future generations will protect residential neighborhoods and allow for many households to attain the dream of home ownership. (F 65)

The *Guiding Principles for Existing Neighborhoods* include:

Preserve, protect, and promote city and county historic resources. Preserve, protect and promote the character and unique features of rural and urban neighborhoods, including their historical and architectural elements. (F 68)

Preserve the mix of housing types in older neighborhoods. (F 68)

Promote the continued use of single-family dwellings and all types of buildings, to preserve the character of neighborhoods and to preserve portions of our past. (F 68)

Strategies for New & Existing Residential Areas

Single family homes, in particular, add opportunities for owner-occupants in older neighborhoods and should be preserved. The rich stock of existing, smaller homes found throughout established areas, provide an essential opportunity for many first-time home buyers. (F 72)

Strategies for Existing Residential Areas

In existing neighborhoods adjacent to the Downtown, retain existing predominately single family blocks in order to maintain the mix of housing types. The current mix within each neighborhood provides ample housing choices. These existing neighborhoods have significantly greater populations and residential densities than the rest of the community. Significant intensification could be detrimental to the neighborhoods and be beyond infrastructure capacities. Codes and regulations which encourage changes in the current balance of housing types, should be revised to retain the existing character of the neighborhoods and to encourage maintenance of established older neighborhoods, not their extensive conversion to more intensive uses. (F 73)

COMP PLAN SPECIFICATIONS THAT DO NOT SUPPORT THIS CHANGE OF ZONE:

The *Guiding Principles for the Urban Environment: Overall Form* include:

Maximize the community's present infrastructure investment by planning for residential and commercial development in areas with available capacity. (F 17)

Preservation and renewal of historic buildings, districts, and landscapes is encouraged. Development and redevelopment should respect historical patterns, precedents, and boundaries in towns, cities and existing neighborhoods. (F 17)

The ***Guiding Principles for the Urban Environment: Residential Neighborhoods*** include:

Construction and renovation within the existing urban area should be compatible with the character of the surrounding neighborhood. (F 18)

Provision of the broadest range of housing options throughout the community improves the quality of life in the whole community. (F 65)

COMP PLAN SPECIFICATIONS THAT ARE NEUTRAL TO THIS CHANGE OF ZONE:

One ***Quality of Life Asset*** from the ***Guiding Principles from the Comprehensive Plan Vision*** states:

The community continues its commitment to neighborhoods. Neighborhoods remain one of Lincoln's great strengths and their conservation is fundamental to this plan. (F 15)

Develop and promote building codes and regulations with incentives for the rehabilitation of existing buildings in order to make it easier to restore and reuse older buildings. Encourage reconversion of single family structures to less intensive (single family use) and/or more productive uses. (F 73)

AESTHETIC CONSIDERATIONS:

Many of the homes in the area appear to be of the same vintage, with similar architectural characteristics. The streetscapes appear consistent with older single-family areas; there is a rhythm to the size and shape of houses, there is some, but not a significant amount of parking on the streets, and many homes are still single-family.

ANALYSIS:

1. This is a request by the Everett Neighborhood Association to change the zoning for approximately 18 blocks within the Everett Neighborhood from R-4, R-5, and R-6 Residential and B-3 Commercial to R-2 Residential. The reason for the downzoning of this area is to preserve and enhance the single-family atmosphere of the area and prevent the overtaxing of the neighborhood's infrastructure and rectify residential zoning inconsistent with the traditional and current property uses.
2. A review process for change of zone proposals is not defined within the Zoning Ordinance. However, Neb. Rev. Stat. §15-902 provides a list of considerations that has traditionally been utilized for such reviews.
 - A. **Safety from fire, flood and other dangers.**
No apparent impact.
 - B. **Promotion of the public health, safety, and general welfare.**
This proposal appears to fulfill several of the policies and guidelines enumerated in the Comprehensive Plan. However, there are also several Comprehensive Plan policies and strategies that would suggest this downzoning is not appropriate.

C. Consideration of the character of the various parts of the area, and their particular suitability for particular uses, and types of development.

The housing within this proposed change of zone is primarily single-family, with some two-family and multiple-family units. The majority of the approximately 279 primary structures in the area appear to have been constructed as single-family homes and are still in that use today. There also appears to be 35 two-family dwellings (70 units) and 22 multiple-family dwellings (101 units). Some of these have been converted from single-family dwellings, while others were constructed for their current use.

D. Conservation of property values.

It is difficult to determine the effect a change of zoning will have on property values. On one hand, property values could diminish if houses could no longer be converted into duplexes, due to increased lot coverage requirements. On the other hand, this may have the effect of encouraging home ownership, which could stabilize or increase property values.

E. Encouraging the most appropriate use of land throughout the area zoned, in accordance with a comprehensive plan.

The Comprehensive Plan encourages efficient use of existing infrastructure and diversity of housing choices. At the same time, the Comp Plan identifies Lincoln's commitment to its neighborhoods, as well as an encouragement to preserve existing single-family homes for single-family uses. This area has developed over time as a predominantly single-family neighborhood, with approximately 20% (57 out of 279) of the parcels now devoted to more than 1 family. However, this 20% of structures includes 44% of all dwelling units (171 out of 389). This neighborhood is likely using its existing infrastructure as efficiently as it can with its current mix of development. This area appears to have reached a density comparable to other neighborhoods downzoned in recent years.

3. There are several differences between R-2 and R-4, 5, and 6 lot and area requirements. The table at the end of this report shows the requirements for residential uses in each district.
4. The uses allowed in these districts are quite similar. The permitted uses in the R-2 district do not include multiple-family or townhouse dwellings, as found in the R-5 and -6 districts. The R-2 district conditional uses require a greater separation between group homes, and a less dense domestic shelter than the other districts. The R-2 district special uses add garden centers, clubs, and mobile home courts and subdivisions to the special uses typically found in the other districts.

5. The R-4, -5, and -6 districts require all new construction to meet the City of Lincoln Neighborhood Design Standards. These standards are designed to recognize that certain areas of Lincoln “retain much of the traditional physical character of their original lower density development,” even though they may have experienced recent higher density development. These standards do not apply to the R-2 district. There does exist a possibility for new construction that would come under the review of these regulations, such as removal/reconstruction or a proposal for a community unit plan. The Neighborhood Design Standards should be reviewed, clarified, and, staff believes, strengthened. However, these standards offer a level of protection to this neighborhood that would be lost if this application is approved.
6. LMC §27.61.040 provides that a nonconforming use “shall not be enlarged, extended, converted, reconstructed, or structurally altered unless such use is changed to a use permitted in the district in which the building or premises is located” or a special permit is obtained. Additionally, §27.61.050 provides nonconforming uses damaged to an extent of more than 60% of their value “shall not be restored except in conformity with the regulations of the district in which the building is located, or in conformance with the provisions of Chapter 27.75 [variance], or Section 27.63.280 [special permit].”
7. However, §27.13.080(g) of the R-2 district regulations provides that “multiple family dwellings existing in this district on the effective date of this title shall be considered nonstandard uses in conformance with the provisions of Chapter 27.61 [nonconforming and nonstandard uses].” This rule allows multiple-family dwellings to be reconstructed, altered, and restored after damage by treating such uses as nonstandard rather than nonconforming.
8. Pursuant to LMC §27.03.460, nonstandard lots are defined as those that fail to meet the minimum lot requirements for the district, such as lot area, lot width, density, setbacks, height, unobstructed open space, or parking.
9. Under the current zoning designations, there are 91 single-family, 10 two-family, 5 multiple-family, and 1 commercial use that are nonstandard. Under the proposed R-2 zoning, there will be 116 single-family, 35 two-family, 22 multiple-family, and 1 commercial use that are nonstandard. All of these lots are nonstandard based upon lot area only.
10. Pursuant to LMC §27.61.090, nonstandard uses, whether existent prior to the ordinance or due to changes in the zoning, may be enlarged, extended, or reconstructed as required by law for safety, or “if such changes comply with the minimum requirements as to front yard, side yard, rear yard, height, and unobstructed open space...”

11. Therefore, any residential use within this area, whether single- or two-family, that is a nonstandard use, may be altered or rebuilt provided it meets setbacks, height, and open space requirements. This may result in a slightly different building footprint for a two-family dwelling, but there is no need under the current zoning ordinance for a variance or special permit if these requirements are met.
12. In the case of a nonstandard use that wants to extend into one of the required yards, a special permit is available. This is a less difficult hurdle than a standard use would face in order to occupy a required yard. A standard use would be required to seek a variance from the Board of Zoning Appeals.
13. The total number of nonstandard and nonconforming uses, both before and after this change of zone, are presented below.

Use type	Current	Proposed R-2	Total units
Single-family	94 nonstd.	116 nonstd.	218
Two-family	12 nonstd.	35 nonstd.	35
Multiple-family	5 nonstd./7 noncof.	22 nonstd./22 nonconf.	22
Other	1 nonstd./1 noncof.	1 nonstd./1 noncof.	<u>4</u>
			279

14. There is an existing special permit for a domiciliary care facility within this area. Such use is allowed by special permit in the R-2 district. This particular use sits on a lot that exceeds the minimum requirement for the R-2 district. This use is neither nonconforming nor nonstandard under R-2 zoning.
15. This area is not adjacent to any existing R-2 Residential districts. Small pockets of R-2 zoning occur approximately 2 blocks to the southwest and 9 blocks to the east. This area represents the outer edge of the Downtown residential areas. Surrounding this area are predominantly R-4, 5, 6, and 7 residential districts. The less dense residential areas do not begin to dominate until east of 27th Street and south of Van Dorn Street.
16. This area appears to be fully built. There appears to be no vacant lots available, nor are there any large lots within the area that could be accumulated and combined to produce an area large enough for a multiple-family development. Therefore, the primary opportunity for additional two- or multiple-family dwellings appears to be converting existing single-family dwellings.
17. An argument can be made that reducing the density in the city effectively increases the need for more units in another location, namely the edge of the city, which increases the burden for all taxpayers by creating the need to fund new infrastructure. By

retaining the existing zoning districts in this location, a greater number of housing units may be supplied through infill development and reuse of existing structures.

However, the Comp Plan also stresses “preservation of [single-family] homes for use by future generations will protect residential neighborhoods and allow for many households to attain the dream of home ownership,” and “the rich stock of existing, smaller homes found throughout established areas, provide an essential opportunity for many first-time home buyers.” (F 65, 72)

18. The Planning Department has used the terms “tipping point” and “carrying capacity” in recent discussions involving downzoning, although these terms are not explicitly defined. These terms are used to identify the concept of a point at which a neighborhood will have a certain mix of single-, two-, and even multiple-family dwellings that works well for the existing infrastructure and for encouraging reinvestment. The occurrence of this point will depend on infrastructure factors such as water and sewer capacities, traffic capacities, and availability of off-street parking, as well as character and compatibility with the surrounding neighborhood, and a recognition of the historic development pattern and the expectations of current residents. Each neighborhood not only has its own tipping point, but that point may change as the contributing factors change.
19. The Planning Department recommends the balance between an appropriate mix of single-, two-, and multiple-family residences currently exists within this neighborhood. The existing density of this area is 5.7 units per acre, which compares to densities of 3.8 to 6.5 units per acre in the neighborhoods where R-2 zoning was recently approved. Additional two-, and multiple-family dwellings would impact the availability of off-street parking, may cause increased congestion on narrow streets, and could disrupt the character of the neighborhood. Certainly, it is possible to design dwellings that respect and address these types of concerns. But the reality is the City cannot impose regulations on future dwellings holding them to a higher standard based upon the characteristics of a specific neighborhood.
20. At the time of this report, the Applicant has stated 115 property owners out of a potential 279 within this area have signed a petition in support of this change. The Applicant has stated that all of the property owners have been contacted for their opinion, and more letters of support may yet be submitted. Two property owners have responded in opposition to the downzoning, and two were indifferent. This calculates to a 97% rate of support of those that responded, and a 41% rate of support of all property owners. A copy of one page of the submitted petition is attached as an example. The remaining pages of the petition are part of the file, and may be viewed at the Planning Department

21. Given the number of recent, pending, and potential requests to downzone established neighborhoods within the core of the city, the Planning Department recommends that policies and strategies to address and improve the common issues of the applicants be analyzed. The Planning Department would like to consider options to R-2 zoning that might better balance the competing goals of preservation and efficiency in the Comprehensive Plan. These might include a changes to the existing residential district standards, a change to the CUP provisions, a new zoning district, and/or a change to the Neighborhood Design Standards.

	R-2	R-4	R-5	R-6
Lot area, single family	6,000 sq. ft.	5,000 sq. ft.	5,000 sq. ft.	4,000 sq. ft.
Lot area, two family	5,000 per family	2,500 per family	2,500 per family	2,500 per family
Lot area, townhouse	N/A	N/A	2,500 sq. ft. per family	2,500 sq. ft. per family
Lot area, multiple-family	N/A	N/A	1,500 sq. ft. per unit	1,100 sq. ft. per unit
Avg. lot width, single family	50 feet	50 feet	50 feet	50 feet
Avg. lot width, two family	40 feet per family	25 feet per family	25 feet per family	25 feet per family
Avg. lot width, townhouse	N/A	N/A	20 feet per family	20 feet per family
Avg. lot width, multiple-family	N/A	N/A	50 feet	50 feet
Front yard, single-family	25 feet	25 feet	25 feet	20 feet
Front yard, two family	25 feet	25 feet	25 feet	20 feet
Front yard, townhouse	N/A	N/A	20 feet	20 feet
Front yard, multiple-family	N/A	N/A	20 feet	20 feet
Side yard, single family	5 feet	5 feet	5 feet	5 feet
Side yard, two family	10 feet (0 at common wall)	5 feet (0 at common wall)	5 feet (0 at common wall)	5 feet (0 at common wall)
Side yard, townhouse	N/A	N/A	10 feet (0 at common wall)	5 feet (0 at common wall)
Side yard, multiple-family	N/A	N/A	7 feet (10' if over 20' in height)	7 feet (10' if over 20' in height)
Rear yard	Smaller of 30 feet or 20% of depth	Smaller of 30 feet or 20% of depth	Smaller of 30 feet or 20% of depth	Smaller of 30 feet or 20% of depth

Prepared by:

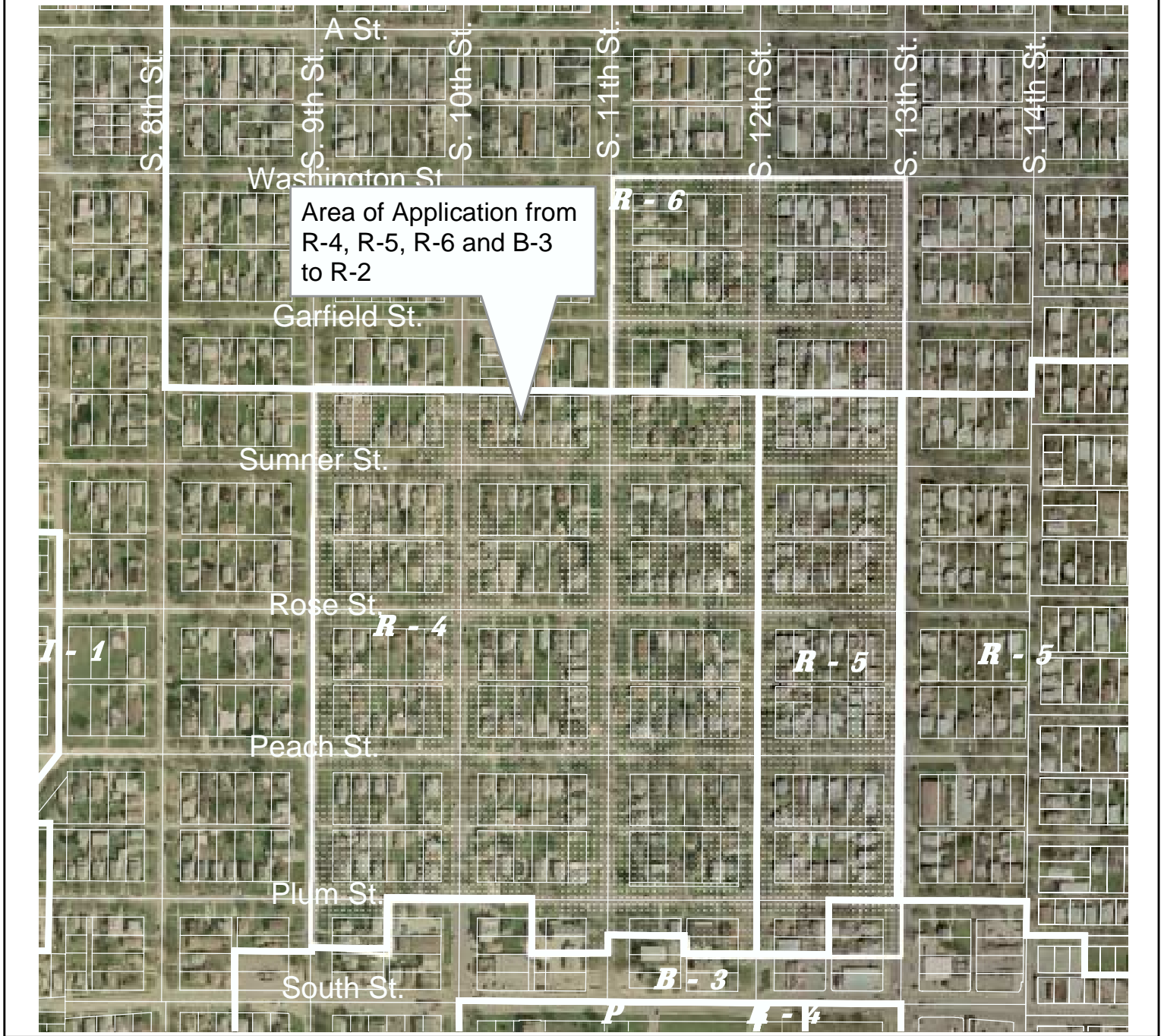
Greg Czaplewski

Planner

Date: December 2, 2003

Applicant: Everett Neighborhood Association
PO Box 81044
Lincoln, NE 68501

Contact: Jeff Tangeman, Association President
1144 Peach Street
Lincoln, NE 68502
436.7818



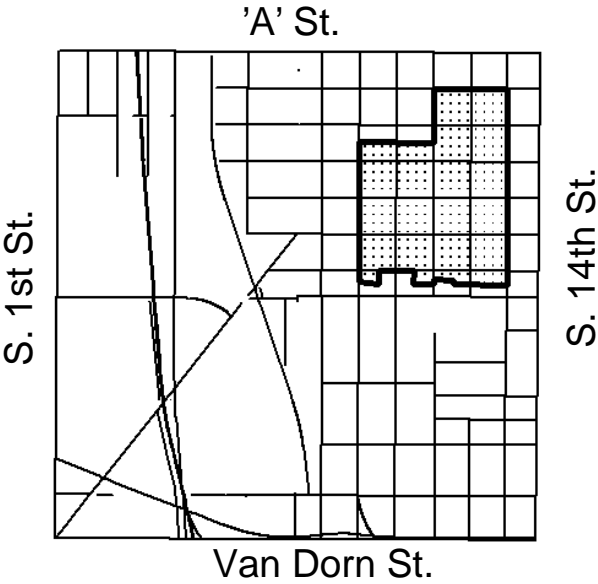
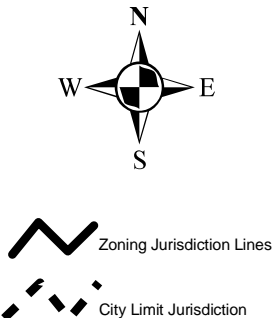
Change of Zone #3424 Everett Neighborhood

2002 aerial

Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile
 Sec. 35 T10N R6E

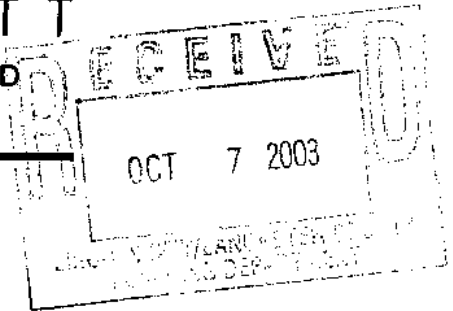




EVERETT
NEIGHBORHOOD
ASSOCIATION

P.O. Box 81044, Lincoln, NE 68501

City-County Planning Commission
555 S. 10th Street
Lincoln, NE 68508



10-6-2003

Honorable Commissioners,

The Everett Neighborhood Association requests that the residential zoning for the southern end of our neighborhood, an area roughly bordered by 9th, 13th, Plum and Washington Streets, be changed from a mixture of R-6, R-5 and R-4 to R-2 residential zoning. The 18 blocks in this area of the Everett neighborhood is a mix of owner-occupied housing, conversion apartment with a few slip-in apartment units. The neighborhood still reflects the single family character from its original construction before World War One. The downzoning effort is supported by the residents of Everett who wish to preserve their neighborhood, enhance the value of the area and attract new homeowners to an area of the city we love.

The southern end of the Everett Neighborhood is a historic middle class neighborhood and one of the first additions to the original plat of Lincoln. The historic use of the properties in our neighborhood has been for single family residential use. The current property distribution as mentioned is primarily single family with a mix of duplex conversions and 1960's era slip-in apartment units. By downzoning, we preserve and enhance the single family atmosphere of our end of the neighborhood and prevent the overtaxing of the neighborhood's infrastructure. The homes in South Everett are affordable for the first-time home buyer or the home buyer that wants a distinctive home from a bygone age. Everett is uniquely situated in Lincoln, with wide tree lined streets, low traffic in the neighborhood core and is within walking distance of two elementary schools and shopping.









The Everett Neighborhood Association is following in the footsteps of other neighborhoods that have recently been rezoned to R-2. Approval of this application will recognize the character of the neighborhood as a bastion of affordable single family homes in the heart of Lincoln and rectify residential zoning inconsistent with the traditional and current property uses.

Thank you for your consideration

Jeffrey Tangeman
President, Everett Neighborhood Association

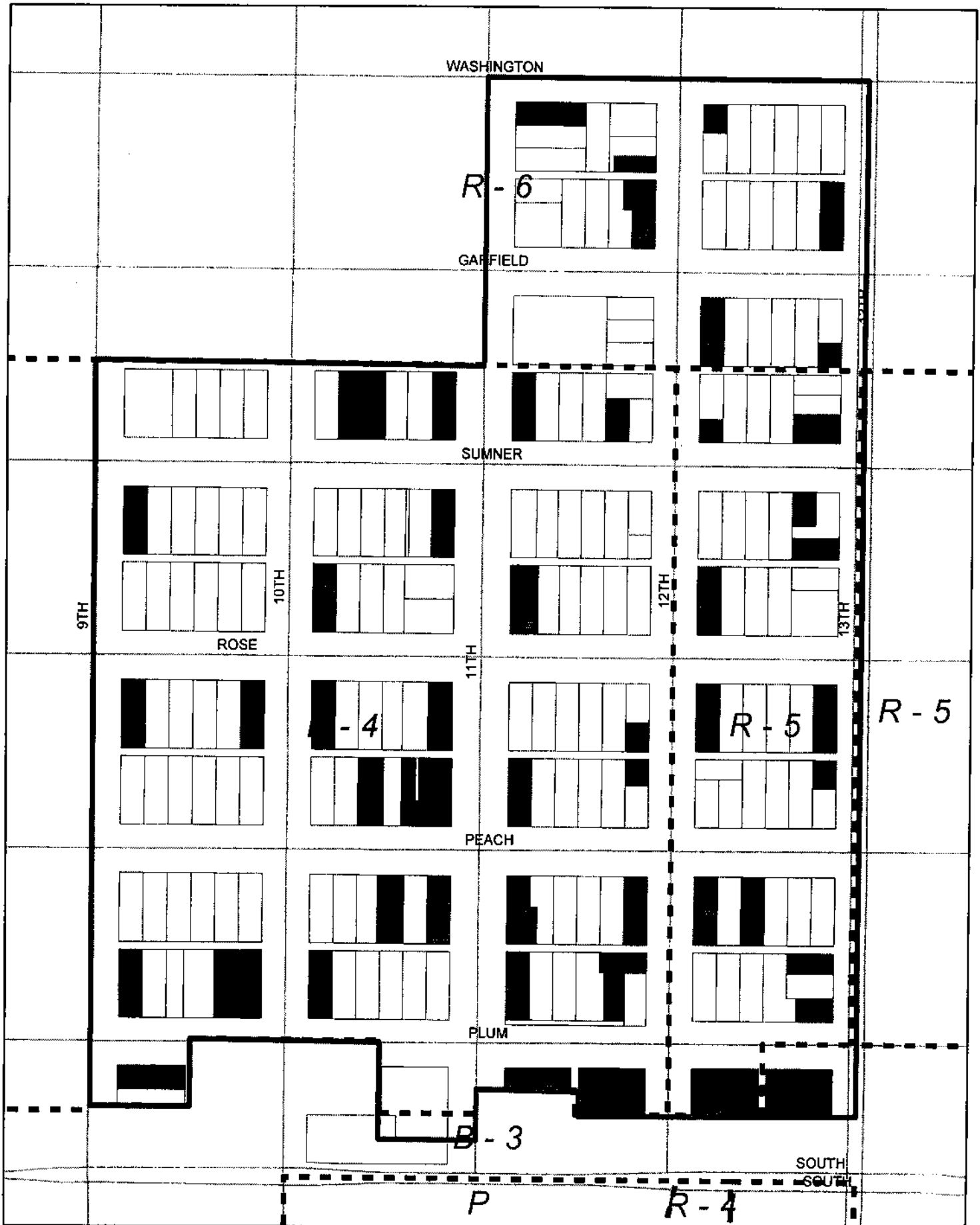
Change of Zone 3424 Land Use

Legend

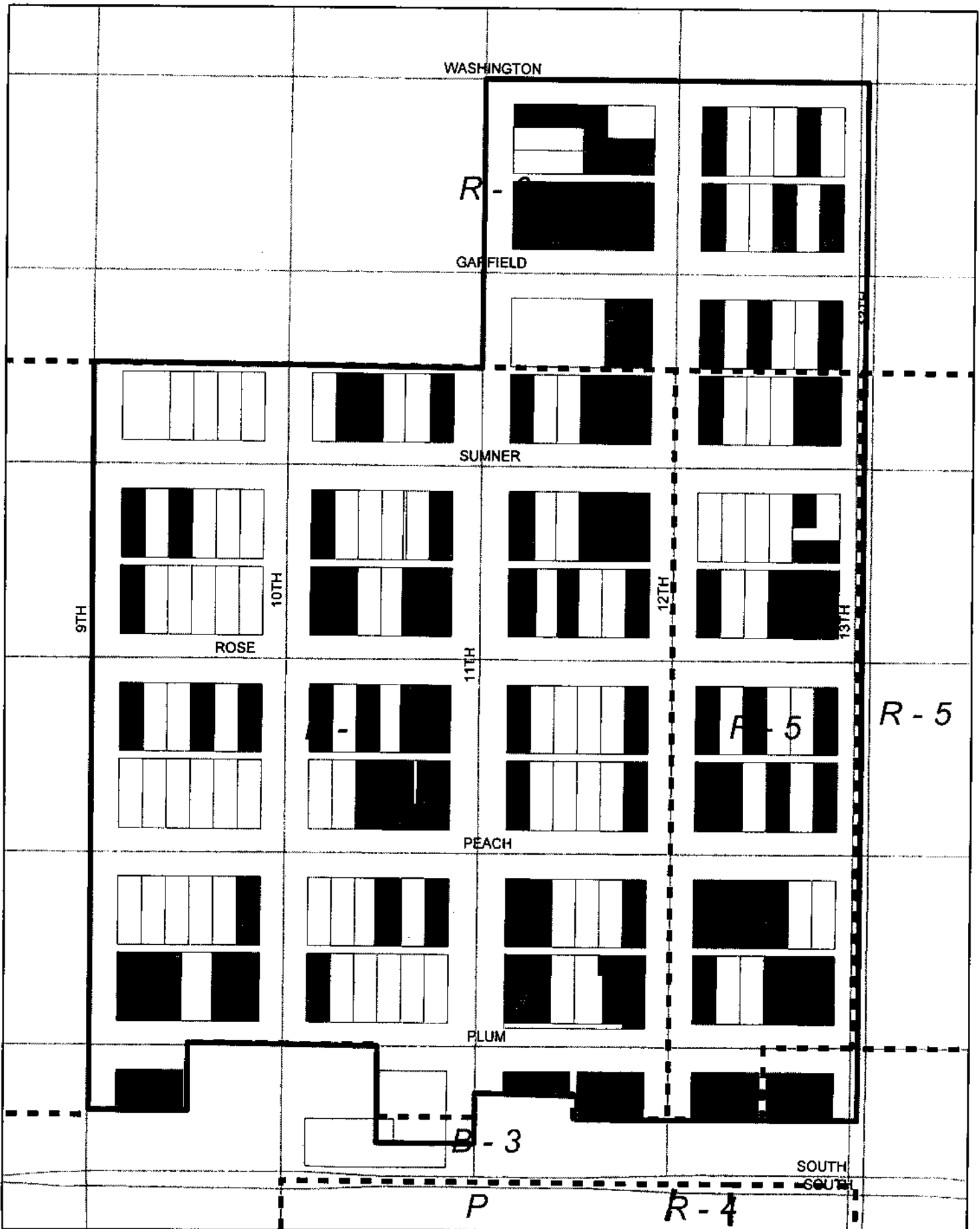
-  Single Family Detached
-  Duplex
-  Multiple
-  Special Housing
-  Commercial
-  Church
-  Vacant / ROW
-  # Number of Units



Change of Zone 3424
Existing Nonstandard Uses



Change of Zone 3424 Nonstandard Uses with R-2 Zoning



Change of Zone 3424 Nonconforming Uses with R-2 Zoning

